

**AMENDMENT TO H.R. 5005, AS REPORTED**  
**OFFERED BY MRS. MORELLA OF MARYLAND**

In subtitle G of title VII of the bill, insert after section 761 the following (and redesignate succeeding sections and references thereto accordingly):

**1 SEC. 762. LABOR-MANAGEMENT RELATIONS.**

**2 (a) LIMITATION ON EXCLUSIONARY AUTHORITY.—**

**3 (1) IN GENERAL.—**No agency or subdivision of  
**4** an agency which is transferred to the Department  
**5** pursuant to this Act shall be excluded from the cov-  
**6** erage of chapter 71 of title 5, United States Code,  
**7** as a result of any order issued under section  
**8** 7103(b)(1) of such title 5 after June 18, 2002,  
**9** unless—

**10 (A)** the mission and responsibilities of the  
**11** agency (or subdivision) materially change; and

**12 (B)** a majority of the employees within  
**13** such agency (or subdivision) have as their pri-  
**14** mary duty intelligence, counterintelligence, or  
**15** investigative work directly related to terrorism  
**16** investigation.

**17 (2) EXCLUSIONS ALLOWABLE.—**Nothing in  
**18** paragraph (1) shall affect the effectiveness of any  
**19** order to the extent that such order excludes any por-



1       tion of an agency or subdivision of an agency as to  
2       which—

3               (A) recognition as an appropriate unit has  
4               never been conferred for purposes of chapter 71  
5               of such title 5; or

6               (B) any such recognition has been revoked  
7               or otherwise terminated as a result of a deter-  
8               mination under subsection (b)(1).

9       (b)   PROVISIONS   RELATING   TO   BARGAINING  
10   UNITS.—

11           (1)   LIMITATION   RELATING   TO   APPROPRIATE  
12   UNITS.—Each unit which is recognized as an appro-  
13   priate unit for purposes of chapter 71 of title 5,  
14   United States Code, as of the day before the effec-  
15   tive date of this Act (and any subdivision of any  
16   such unit) shall, if such unit (or subdivision) is  
17   transferred to the Department pursuant to this Act,  
18   continue to be so recognized for such purposes,  
19   unless—

20               (A) the mission and responsibilities of such  
21               unit (or subdivision) materially change; and

22               (B) a majority of the employees within  
23               such unit (or subdivision) have as their primary  
24               duty intelligence, counterintelligence, or inves-



1           tigative work directly related to terrorism inves-  
2           tigation.

3           (2) LIMITATION RELATING TO POSITIONS OR  
4           EMPLOYEES.—No position or employee within a unit  
5           (or subdivision of a unit) as to which continued rec-  
6           ognition is given in accordance with paragraph (1)  
7           shall be excluded from such unit (or subdivision), for  
8           purposes of chapter 71 of such title 5, unless the  
9           primary job duty of such position or employee-

10                   (A) materially changes; and

11                   (B) consists of intelligence, counterintel-  
12           ligence, or investigative work directly related to  
13           terrorism investigation.

14           In the case of any positions within a unit (or sub-  
15           division) which are first established on or after the  
16           effective date of this Act and any employees first ap-  
17           pointed on or after such date, the preceding sentence  
18           shall be applied disregarding subparagraph (A).

19           (c) COORDINATION RULE.—No other provision of  
20           this Act or of any amendment made by this Act may be  
21           construed or applied in a manner so as to limit, supersede,  
22           or otherwise affect the provisions of this section, except  
23           to the extent that it does so by specific reference to this  
24           section.

